

December 19, 2018

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Contact Name:**

Deborah Sovereign, Consultant  
1101 Stadium Drive  
Ada, OK 74820  
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Email: [dsovereign@kelloggllc.com](mailto:dsovereign@kelloggllc.com)

**Applicant:**

Ogden Preparatory Academy  
Billed Entity # 16072231  
FCC Form 471: 170102204  
FRN: 1799023164

Dear Ms. Dortch:

Pursuant to sections 54.719 and 54.722 of the Commission's rules,<sup>1</sup> we request review of the Universal Service Administrative Company's denial of an appeal of USAC's decision to reject an appeal regarding the denial of funding for basic maintenance services requested by Ogden Preparatory Academy and waiver of the invoicing deadline for FRN 1799023164. Kellogg & Sovereign Consulting, LLC is the consultant for Ogden Preparatory Academy for the above-captioned FRN.<sup>2</sup>

USAC should have granted the appeal because (1) the request for maintenance was included on the narrative of the Form 470 (2) the request for maintenance was included on the associated RFP and (3) bidders were aware of the request for maintenance as indicated by the fact that more than one bid was received. We respectfully ask that the Bureau reverse USAC's decision or, in the alternative, waive the FCC Form 470 dropdown USAC requirement.

Additionally, we are requesting a waiver of the invoicing deadline since any approval would be made after the last date to invoice on this FRN of 10/29/2018.

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<sup>1</sup> 47 C.F.R. § 54.719(b), (c); 47 C.F.R. § 54.722(a).

<sup>2</sup> Attachment A, Letter of Agency.

## **Background**

On April 17, 2017, Ogden Preparatory Academy submitted FCC Form 471# 171012204 for funding year 2017. The Form 471 included requests for discounts for a firewall on FRN 1799023166 and associated basic maintenance for the new firewall on FRN 1799023164.

On July 13, 2017, USAC issued a funding commitment decision letter for FRN 1799023164 committing \$1,920.00 in Category Two funding for network maintenance for a firewall. The request for funding for a firewall on FRN 1799023166 was also committed in full. NetDiverse LLC was the service provider.

On August 20, 2018, USAC rescinded the funding commitment for FRN 1799023164 because it was determined by USAC “that the FCC Form 470 that established the competitive bidding process for this FRN did not include Basic Maintenance of Internal Connections and therefore, it does not meet the competitive bidding requirements. “

On September 4, 2018, the service provider submitted an invoice in the amount of \$1920.00 to USAC which was denied payment since the funding had been rescinded.

On October 12, 2018, the applicant appealed the denial of funding. The applicant explained the following:

### **Explanation**

On February 3, 2017 the applicant posted a FCC Form 470 for category 2 services. The Form 470 included one line item for Internal Connections Firewall Service and Components. The narrative read as follows: *“Requesting bids for firewall hardware device and supporting licensing to integrate into the current Meraki Wireless and switch infrastructure. Bidder requested to include all necessary cabling, connectors, components, installation, configuration, travel, per diem and any other applicable fees. District is requesting basic maintenance for new equipment and bundled warranty only for equipment listed on this request. See RFP for further details.[emphasis added]”*

The narrative clearly requested bids for both a firewall hardware device as well as basic maintenance on that firewall device. The narrative also directed potential bidders to the uploaded RFP document for further clarification on the equipment and services requested. The applicant’s RFP clearly identifies their desire that basic maintenance bids be requested and included. Furthermore, the applicant received two bids in reference to this Form 470 and RFP. Both of those bids included pricing for basic maintenance. All potential bidders were aware that the applicant was requesting basic maintenance bids. The applicant’s intent was clear, from the narrative of the Form 470, the RFP document, as well as in the bidder responses, that bidding was requested for both a firewall device as well as basic maintenance for that firewall. There is no evidence of waste, fraud, or abuse by the applicant, so we respectfully request FRN 1799023164 be adjusted to its originally funded amount of pre-discount \$2,400.

On October 26, 2018, USAC issued denial of the appeal. The USAC post commitment rationale was as follows:

USAC rescinded the funding commitment for FRN 1799023164 because it was determined that the FCC Form 470 that established the competitive bidding process for this FRN did not include Basic Maintenance of Internal Connections and therefore, it does not meet the competitive bidding requirements. In your appeal, you did not show that USAC's determination was incorrect. Consequently, your appeal is denied. FCC rules require that all products and services for which an applicant requests discounts on an FCC Form 471 must be competitively bid on an FCC Form 470. The FCC Form 470 must include a complete description of the services for which discounts are sought, be posted on the website for 28 days, and applicants must carefully consider all bids received before selecting a vendor, entering into a legally binding agreement or signing a contract, and signing and submitting an FCC Form 471. See 47 C.F.R. secs 54.503(b) nad (c),54.511(a).

### **Discussion**

The applicant did follow FCC Rules that “require that all products and services for which an applicant requests discounts on an FCC Form 471 must be competitively bid on the an FCC Form 470. “

The applicant requested bids for a new firewall and used the FCC Form 470 drop down to properly show that Internal connections -firewall was being requested. (Attachment D) The applicant also requested basic maintenance for the firewall by stating in both the narrative on the Form 470 (Attachment D) as well as the RFP (Attachment E) associated with the Form 470 that the applicant was seeking basic maintenance for the firewall. The applicant received two bids for a new firewall and both bids included maintenance for the firewall (Attachment F).

As indicated by the bid responses that both included maintenance, the request for maintenance was indeed seen by both bidders on the Form 470 and RFP. The applicant did competitively bid the firewall maintenance.

Although not mentioned in the USAC denial, we believe USAC denied the funding because the Form 470 dropdown for maintenance had not been selected on the Form 470.

The following guidance provided by USAC in the March 18, 2016<sup>3</sup> addresses how to handle the situation if the wrong drop down is selected:

**Q. I have already filed my FCC Form 470. Based on the information above, I believe that I chose the wrong dropdown. What should I do?**

A. Although the correct choice is important, as long as you have provided sufficient information to enable service providers to submit responsive bids, you can point to that

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<sup>3</sup> <https://www.usac.org/sl/tools/news-briefs/preview.aspx?id=672>

information if you get any questions during the review of your application. You can provide this information in one of the following ways:

- In the FCC Form 470 narrative.
- If you indicated that you had an RFP, in the RFP document you uploaded prior to certifying your form.
- If you uploaded an RFP document before certification, in an RFP document that was subsequently uploaded to your form prior to the Allowable Contract Date (the date 28 days after your FCC Form 470 was certified).

The guidance above was posted by USAC on March 18, 2016 which was less than a year before the applicant posted the Form 470 on February 3, 2017. Therefore, we believe the guidance should still be taken into consideration for this particular case. We understand that the Form 470 dropdown is important as it allows service providers to better data-mine the Form 470s to locate bid opportunities. The best practice would have been to select the Form 470 dropdown for maintenance in addition to the drop down for the firewall. However, this should not result in full denial of the funding as the applicant did follow the FCC rules to include a complete description of the services for which discounts are sought.

If the FCC approves the waiver of the USAC's requirement for the Form 470 dropdown, or otherwise approves this appeal, we also respectfully request that an invoicing deadline extension waiver be specifically granted for FRN 1799023164. The applicant did not file a one-time invoicing deadline extension request with USAC since the denied funding was under appeal on October 29, 2018. The service provider did, however, submit an invoice on September 4, 2018 that was denied. Therefore, a waiver of the invoicing deadline extension rules would be necessary in order for USAC to approve the service provider invoice related to this FRN.

## Conclusion

In summary, the applicant is requesting reinstatement of the funding commitment on FRN 1799023164 in the amount of \$1,920.00 (\$2400.00 pre-discount) and waiver of the invoicing deadline extension rules in order for the service provider to request payment.

Respectfully submitted,



Deborah Sovereign, Consultant

## Attachments:

- A. Letter of Agency
- B. Commitment Adjustment Letter
- C. Revised Funding Commitment Decision Letter
- D. Form 470 # 170064116
- E. RFP uploaded to Form 470 # 170064116
- F. Bids received

## **ATTACHMENT A – Letter of Agency**



# OGDEN PREPARATORY ACADEMY

## **E-RATE LETTER OF AGENCY 2017-18**

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**APPLICANT: Ogden Preparatory Academy**

**USAC Name: Ogden Preparatory Academy**

**USAC Billed Entity Number: 16072231**

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("Applicant") hereby authorizes Kellogg & Sovereign® Consulting, LLC or its designated agents or employees ("KSLLC") to act on our behalf during the term of this authorization.

Although not exclusive, KSLLC is specifically authorized to conduct the following actions on behalf of the Applicant:

- ♦ Prepare and submit Federal Communications Commission ("FCC") Forms 470, 471, 486, 500, 472 and other forms requested by the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC")
- ♦ Prepare and submit documentation to USAC or the FCC in compliance with E-Rate program rules and regulations.
- ♦ Act as our agent in working with representatives of the FCC or USAC to provide information as requested during application review, selective reviews, site visits, audits and any other activity associated with review of our applications.
- ♦ Prepare Requests for Proposal ("RFPs") to be posted to the KSLLC website and distributed to appropriate service providers.
- ♦ Provide information to service providers as needed to clarify information in RFPs and Forms 470.
- ♦ Solicit and receive proposals from service providers for requested services.
- ♦ Prepare comparisons of proposals from service providers.
- ♦ Complete contracts for eligible E-Rate services as specifically directed by the Applicant's authorized representative.

**I also understand that in submitting these forms on our behalf, representatives of Kellogg & Sovereign® Consulting, LLC are making certifications for our school district. By signing this letter of agency under oath, I make the following certifications as required by the FCC<sup>218</sup>:**

I certify that the schools I represent are eligible for support because they are schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801(18) and (38), that do not operate as for-profit businesses and do not have endowments exceeding \$50 million.

I certify that the entity(ies) I represent or the entities listed on our applications will secure access, separately or through this program, to all of the resources, including computers, training, software, maintenance, internal connections, and electrical capacity necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that I have considered what financial resources should be available to cover these costs. I certify that the entities I represent or the entities to be listed on our application will secure access to all of the resources necessary to pay the discounted charges for eligible services from funds to which access will be secured in the funding year. I certify that the Billed Entity will pay the non-discount portion of the cost of the goods and services to the service provider(s).

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<sup>218</sup> Certifications per FCC Forms 470, 471 and 486. <http://www.usac.org/si/tools/forms.aspx> (OMB Control No. 3060-0806 FCC Forms 470 and 471, OMB Control No. 3060-0853 FCC Form 486).

<sup>1</sup>Modernizing the E-rate Program for Schools and Libraries, WC Docket No. 13-184, E-Rate Modernization Order, FCC 14-99A1 Released on 7/23/2014 at p.125-128 . [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2014/db0723/FCC-14-99A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0723/FCC-14-99A1.pdf) (last visited July 31, 2014).

I authorize Kellogg & Sovereign® Consulting, LLC to post my Form 470 and, if applicable, Request for Proposal (RFP). Unless I am purchasing eligible services exempt from the competitive bidding requirement, I certify that a FCC Form 470 will be posted and that any related RFP will be made available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted will be carefully considered and the most cost-effective service offering will be selected, with price being the primary factor considered, and the most cost-effective means of meeting educational needs and technology goals.

I certify that I will review all applicable FCC, state, and local procurement/competitive bidding requirements and that the entity or entities I represent will comply with them.

I certify that the services the applicant purchases at discounts provided by 47 U.S.C. § 254 will be used primarily for educational purposes, see 47 C.F.R. § 54.500 and will not be sold, resold or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. § 54.513. Additionally, I certify that the entity or entities listed on our applications have or will not have received anything of value or a promise of anything of value, other than services and equipment sought by means of forms filed with the Schools & Libraries Division, from the service provider, or any representative or agent thereof or any consultant in connection with our request for services.

I certify that I and the entity(ies) I represent will comply with all program rules, including recordkeeping requirements, and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. There will be signed contracts or other legally binding agreements covering all of the services listed on our FCC Forms 471 except for those services provided under non-contracted tariffed or month-to-month arrangements. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.

I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.

I certify that I will retain required documents for a period of at least **10 years** (or whatever retention period is required by the rules in effect at the time of this certification) after the later of the last day of the applicable funding year or the service delivery deadline for the associated funding request. I acknowledge that I may be audited pursuant to participation in the schools and libraries program. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to USAC.

I certify that I am authorized to order supported services for the eligible entity(ies) I represent. I certify that I am authorized to sign this Letter of Agency and all information to be provided to Kellogg & Sovereign® Consulting, LLC for the E-Rate submission will be true and correct to the best of my knowledge, that the entities that are receiving discounts pursuant to the associated applications have complied with the terms, conditions, and purposes of this program, that no kickbacks were or will be paid to anyone and that false statements on FCC forms can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.

I acknowledge that all pricing and technology infrastructure information submitted as part of an FCC Form 471 shall be treated as public and non-confidential by the Administrator unless the applicant specifies a statute, rule, or other restriction, such as a court order or an existing contract limitation barring public release of the information. I certify that contracts and other agreements will not prohibit disclosure of pricing or technology infrastructure information.

I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities that will be listed on our application, or any person associated in any way with my entity and/or the entities listed on our application, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.

I certify that if any of the funding requests listed on our FCC forms are for discounts for products or services that contain both eligible and ineligible components that Kellogg & Sovereign® Consulting, LLC on our behalf will allocate the cost of the contract to eligible and ineligible components as required by the Commission's rules at 47 C.F. R. § 54.504.

I certify that the non-discount portion of the costs for eligible services will not be paid by the service provider. The pre-discount costs of eligible services featured on the applicable FCC forms will be net of any rebates or discounts offered by the service provider. I acknowledge that, for the purpose of this rule, the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.

I certify that prior to the commencement of service, the school(s) I represent will be in compliance with the requirements of the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l).

I certify that I am authorized to sign this Letter of Agency and, to the best of my knowledge, information and belief, all information provided to KSLLC for E-Rate submission is true. If any of the statements made above are incorrect, fraudulent or misleading, the undersigned and their institution agrees to indemnify, as allowed by state law, KSLLC, its members, employees and agents of any and all liability, legal fees or actions that may arise from the incorrect, fraudulent or misleading statement(s).

Applicant Name: Amie L Campbell, Ogden Preparatory  
 Mailing Address, City, ST, Zip: ~~1435~~ 1435 Lincoln Ave., Ogden, UT Academy 84404  
 Signature of Authorized Person: Amie L Campbell Date: 2/1/17  
 Printed Name of Authorized Person: Amie L Campbell Title: Principal

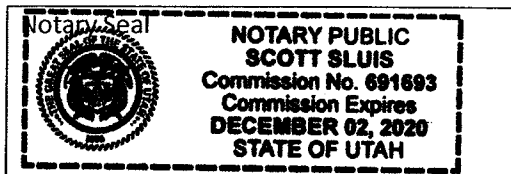
*This authorization shall remain in effect until KSLLC is notified of its cancellation in writing via certified mail.*

### SWORN AFFIDAVIT

STATE OF Utah )  
 ) ss.  
 COUNTY OF Weber )  
 On this 2nd day of February, 2017, before me, the subscriber, a Notary Public in and for said State and

County, personally appeared Amie L Campbell, known or identified to me to be the person whose name is subscribed to this Letter of Agency, and acknowledged that he/she is authorized on behalf of said entity/entities to execute all documents pertaining hereto and acknowledged to me that he/she executed the same as his/her voluntary act and deed on behalf of said organization.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal in said State and County on the day and year last above written.



(Signature of Notary)

My Commission Expires: 12/02/2020



## **ATTACHMENT B – Commitment Adjustment Letter**



## Commitment Adjustment Letter

Andrew Smith  
OGDEN PREPARATORY ACADEMY  
1415 Lincoln Ave.  
Ogden, UT 84404

08/20/2018

Our review of your Schools and Libraries Universal Service Support Program (or E-rate) funding request has determined funds were committed in violation of Federal Communications Commission (FCC) rules. You have 60 days from the date of this letter to appeal the following decision(s). For more detailed information see below.

**Total commitment adjustment:** \$1,920.00

**Total amount to be recovered:** \$0.00

FCC Form 471	FRN	Commitment adjustment	Total amount to be recovered	Explanation(s)	Party to recover from
171012204	1799023164	\$1,920.00	\$0.00	Failure to post a FCC Form 470 for the category of service for which the applicant sought funding on the FCC Form 471	BEN

See Attached Adjustment Report for more information on the specific FRNs and Explanations listed above.

### Commitment Adjustment

FCC rules require the Universal Service Administrative Company (USAC) to rescind commitments and recover funding when it is determined that funding was committed and disbursed in violation of the rules. This letter notifies you that USAC will be adjusting your funding commitment(s) and provides information on how to appeal this decision.

This is NOT a bill. If disbursed funds need to be recovered, USAC will issue a Demand Payment Letter. The debt referenced in the Demand Payment Letter will be due within 30 days of that letter's date. Failure to pay the debt may result in interest, late payment fees, and administrative charges and will invoke the FCC's "Red Light Rule."

### FCC's Red Light Rule

The FCC Red Light Rule requires USAC to dismiss pending FCC Form 471 applications, appeals, and invoices or to net disbursements offsetting the debt if the entity responsible for paying the outstanding debt owed to the FCC has not paid the debt or made satisfactory arrangements to pay the debt within 30 days of the Demand Payment Letter. For information on the Red Light Rule, see

<https://www.fcc.gov/licensing-databases/fees/debt-collection-improvement-act-implementation>.

### To Appeal This Decision

If you wish to contest any part of this letter, you must first file an appeal with USAC to seek review of the decision. Parties that have filed an appeal with USAC and received an adverse decision may, if they choose, appeal USAC's decision to the FCC. Parties seeking a waiver of a codified FCC rule should file a request for waiver directly with the FCC because



USAC cannot waive FCC rules. Your appeal to USAC or waiver request to the FCC must be filed within 60 days of the date of this letter.

All appeals filed with USAC must be filed in EPC by selecting "Appeal" from the menu in the top right hand corner of your landing page and providing the requested information.

Your appeal should include the following information. (Because you file the appeal through your EPC account, the system will automatically fill in some of these components for you).

- 1) Name, address, telephone number, and email address for the contact person for this appeal.
- 2) Indicate specifically that your letter is an appeal. Include the following to identify the USAC decision letter (e.g., Commitment Adjustment Letter) and the decision you are appealing:
  - a. Appellant name;
  - b. Applicant name and service provider name, if different from appellant;
  - c. Applicant BEN and Service Provider Identification Number (SPIN);
  - d. FCC Form 471 Application Number and the Funding Request Number (FRN) or Numbers as assigned by USAC;
  - e. "Commitment Adjustment Letter," AND the exact text or the decision that you are appealing.
- 3) Identify the problem and the reason for the appeal and explain precisely the relief sought. Please keep your appeal to the point, and provide supporting documentation. Be sure to keep a copy of your entire appeal, including any correspondence and documentation. A copy will automatically be saved for you in EPC. USAC will reply to your appeal submission to confirm receipt.

For more information on submitting an appeal to USAC including step by step instructions on how to file the appeal through EPC, please see "Appeals" in the Schools and Libraries section of the USAC website.

As mentioned, parties seeking a waiver of FCC rules or that have filed an appeal with USAC and received a decision may file a request for waiver or appeal USAC's decision to the FCC. Waiver requests or appeals to the FCC must be made within 60 days of the issuance of USAC's decision and include all of the information referenced above for appeals to USAC.

The FCC recommends filing appeals or waiver requests with the Electronic Comment Filing System (ECFS) to ensure timely filing. Electronic waiver requests or appeals will be considered filed on a business day if they are received at any time before 11:59 PM ET. If you have questions or comments about using the ECFS, please contact the FCC directly at (202) 418-0193.

For more information about submitting waiver requests or appeals to the FCC, including options to submit the waiver request or appeal via U.S. mail or hand delivery, visit the FCC's website.

Schools and Libraries Division



## Adjustment Report

FCC Form 471 Application Number:	171012204
Funding Request Number:	1799023164
Commitment Adjustment:	\$1,920.00
Total Amount to Be Recovered:	\$0.00
Explanation(s):	Failure to post a FCC Form 470 for the category of service for which the applicant sought funding on the FCC Form 471
Party to Recover From:	BEN
Funding Year:	2017
Billed Entity Number:	16072231
Services Ordered:	Basic Maintenance of Internal Connections
Service Provider Name:	NetDiverse LLC
SPIN:	143036067
Original Funding Commitment:	\$1,920.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$0.00

## Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment of \$1,920.00 must be rescinded in full. FCC Form 470 did not include the service(s) for which funding was sought in the FCC Form 471 application, which is a violation of the FCCs competitive bidding rules. The applicant does not have a 470 that posts for Basic Maintenance of Internal Connections Service. FCC rules require that, except under limited circumstances, all eligible schools and libraries shall seek competitive bids for all services eligible for support by submitting a complete FCC Form 470 to USAC web site for potential service providers to evaluate. Since the services for which you sought funding were not properly posted to the website for competitive bidding, the commitment has been rescinded in full.

**ATTACHMENT C – Revised Funding Commitment  
Decision Letter**

# Revised Funding Commitment Decision Letter

## Funding Year 2017

**Contact Information:**

Andrew Smith  
OGDEN PREPARATORY ACADEMY  
1415 Lincoln Ave.  
Ogden, UT 84404  
[asmith@ogdenprep.org](mailto:asmith@ogdenprep.org)

**BEN:** 16072231**Post Commitment Wave:** 32

## Totals

Original Commitment Amount	\$1,920.00
<b>Revised Commitment Amount</b>	<b>\$0.00</b>

## What is in this letter?

Thank you for submitting your post-commitment request for Funding Year 2017 Schools and Libraries Program (E-rate) funding. Attached to this letter, you will find the revised funding statuses and/or post commitment changes to the original Funding Commitment Decision Letter (FCDL) you received. Below are the changes that were made:

- Appeals

The Universal Service Administrative Company (USAC) is providing this information to both the applicant(s) and the service provider(s) so that all parties are aware of the post-commitment changes related to their funding requests and can work together to complete the funding process for these requests.

## Next Steps

1. **File the FCC Form 486**, Service Confirmation and Children's Internet Protection Act (CIPA) Certification Form, for any FRNs included in this RFCDL, if you have not already done so. Please review the CIPA requirements and file the form(s).



**BEN Name:** OGDEN PREPARATORY ACADEMY

**BEN:** 16072231

**Post Commitment Wave:** 32

- o **If USAC approved funding on an FRN in your original FCDL**, the deadline to submit the FCC Form 486 is 120 days from the date of the original FCDL or from the service start date (whichever is later).
  - o **If a new FRN was created for this RFCDL or funding was not approved on an FRN in your original FCDL but is approved in this RFCDL**, the deadline to submit the FCC Form 486 is 120 days from the date of this RFCDL or from the service start date (whichever is later).
2. **Invoice USAC**, if you or your service provider have not already done so. Work with your service provider(s) to determine if your bills will be discounted or if you will request reimbursement from USAC after paying your bills in full.
- **If you (the applicant) are invoicing USAC:** You must pay your service provider(s) the full cost for the services you receive and file the [FCC Form 472](#), the Billed Entity Applicant Reimbursement (BEAR) Form, to invoice USAC for reimbursement of the discounted amount.
  - **If your service provider(s) is invoicing USAC:** The service provider(s) must provide services, bill the applicant for the non-discounted share, and file the [FCC Form 474](#), the Service Provider Invoice (SPI) form, to invoice USAC for reimbursement for the discounted portion of costs. Every funding year, service providers must file an [FCC Form 473](#), the Service Provider Annual Certification Form, to be able to submit invoices and to receive disbursements.
  - **To receive an invoice deadline extension, the applicant or service provider** must request an extension on or before the last date to invoice. **If you anticipate, for any reason, that invoices cannot be filed on time**, USAC will grant a one-time, 120-day invoice deadline extension if timely requested.

## How to Appeal or Request a Waiver of a Decision

You can appeal or request a waiver of a decision in this letter **within 60 calendar days** of the date of this letter. Failure to meet this deadline will result in an automatic dismissal of your appeal or waiver request.

**Note:** The Federal Communications Commission (FCC) will not accept appeals of USAC decisions that have not first been appealed to USAC. However, if you are seeking a waiver of E-rate program rules, you must submit your request to the FCC and not to USAC. USAC is not able to waive the E-rate program rules.

- **To submit your appeal to USAC**, visit the Appeals section in the [E-rate Productivity Center \(EPC\)](#) and provide the required information. USAC will reply to your appeal submissions to confirm receipt. Visit USAC's [website](#) for additional information on submitting an appeal to USAC, including step-by-step instructions.
- **To request a waiver of the FCC's rules or appeal USAC's appeal decision**, please submit it to the FCC in proceeding number CC Docket No. 02-6 using the [Electronic Comment Filing System](#) (ECFS). Include your contact information, a statement that your filing is a waiver request,



**BEN Name:** OGDEN PREPARATORY ACADEMY

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identifying information, the FCC rule(s) for which you are seeking a waiver, a full description of the relevant facts that you believe support your waiver request and any related relief, and any supporting documentation.

For appeals to USAC or to the FCC, be sure to keep a copy of your entire appeal, including any correspondence and documentation, and provide a copy to the affected service provider(s).

## **Obligation to Pay Non-Discount Portion**

Applicants are required to pay the non-discount portion of the cost of the eligible products and/or services to their service providers. Service providers are required to bill applicants for the non-discount portion of costs for the eligible products and/or services. The FCC stated that requiring applicants to pay the non-discounted share of costs ensures efficiency and accountability in the program. If using the BEAR invoicing method, the applicant must pay the service provider in full (the non-discount plus discount portion) **before** seeking reimbursement from USAC. If using the SPI invoicing method, the service provider must first bill the applicant **before** invoicing USAC.

## **Notice on Rules and Funds Availability**

The applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program and the FCC's rules. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds.





**BEN Name:** OGDEN PREPARATORY ACADEMY

**BEN:** 16072231

**Post Commitment Wave:** 32

## Revised Funding Commitment Decision Overview

### Funding Year 2017

Funding Request Number (FRN)	Service Provider Name	Request Type	Revised Committed	Review Status
1799023164	NetDiverse LLC	Appeals	\$0.00	Denied



**BEN Name:** OGDEN PREPARATORY ACADEMY

**BEN:** 16072231

**Post Commitment Wave:** 32

<b>Post Commitment Request Number:</b> 126545	<b>Post Commitment Request Type:</b> Appeals	<b>Post Commitment Decision:</b> Denied
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<b>FRN:</b> 1799023164	<b>Service Type:</b> Basic Maintenance of Internal Connections	<b>Original Status:</b> Funded	<b>Revised Status:</b> Funded
<b>FCC Form 471: 171012204</b>			

Dollars Committed			
Monthly Cost		One-Time Cost	
Months of Service	12		
Total Eligible Recurring Charges	\$0.00	Total Eligible One Time Charges	\$0.00
Total Pre-Discount Charges		\$0.00	
Discount Rate		80.00%	
Revised Committed Amount		\$0.00	

Dates	
Service Start Date	7/1/2017
Contract Expiration Date	6/30/2018
Contract Award Date	3/30/2017
Service Delivery Deadline	6/30/2018
Expiration Date (All Extensions)	

Service Provider and Contract Information	
Service Provider	NetDiverse LLC
SPIN (498ID)	143036067
Contract Number	OGDE_NetDiverse_MTC FRWL_11992
Account Number	
Establishing FCC Form 470	170064116

Consultant Information	
Consultant Name	Riley Harpole
Consultant's Employer	Kellogg & Sovereign Consulting, LLC
CRN	16024809

<b>Revised Funding Commitment Decision Comments:</b>
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<b>Post Commitment Rationale:</b>
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USAC rescinded the funding commitment for FRN 1799023164 because it was determined that the FCC Form 470 that established the competitive bidding process for this FRN did not include Basic Maintenance of Internal Connections and therefore, it does not meet the competitive bidding requirements. In your appeal, you did not show that USAC's determination was incorrect. Consequently, your appeal is denied. FCC rules require that all products and services for which an applicant requests discounts on an FCC Form 471 must be competitively bid on an FCC Form 470. The FCC Form 470 must include a complete description of the services for which discounts are sought, be



**BEN Name:** OGDEN PREPARATORY ACADEMY

**BEN:** 16072231

**Post Commitment Wave:** 32

posted on the website for 28 days, and applicants must carefully consider all bids received before selecting a vendor, entering into a legally binding agreement or signing a contract, and signing and submitting an FCC Form 471. See 47 C.F.R. secs. 54.503(b) and (c), 54.511(a). These competitive bidding requirements help to ensure that applicants receive the lowest pre-discount price from vendors. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order on Reconsideration, 12 FCC Rcd 10095, 10098, FCC 97-246 para. 9 (rel. Jul. 10, 1997).

## **ATTACHMENT D – Form 470**



## FCC Form 470 – Funding Year 2017

Form 470 Application Number: 170064116  
OGDE 2017-C2

### Billed Entity

OGDEN PREPARATORY ACADEMY  
1415 Lincoln Ave.  
Ogden, WEBER, UT 84404  
801-627-2066

### Contact Information

Debi Sovereign  
dsovereign@kelloggllc.com  
580-332-1444

**Billed Entity Number:** 16072231

**FCC Registration Number:** 0020679999

### Application Type

**Applicant Type:** School District

**Recipients of Services:** Charter School; Charter School District;  
Public School; Public School District

**Number of Eligible Entities:** 2

### Consulting Firms

Name	Consultant Registration Number	Phone Number	Email
Kellogg & Sovereign Consulting, LLC	16024809	580-332-1444	info@kelloggllc.com

### Consultants

Name	Phone Number	Email
Debi Sovereign	580-332-1444	dsovereign@kelloggllc.com
Rachel Botts	580-332-1444	rbotts@kelloggllc.com
Riley Harpole	580-332-1444	riley.harpole@kelloggllc.com

### RFPs

Id	Name
27583	Ogden Prep UT RFP 1718

### Category One Service Requests

Service Type	Function	Other	Minimum Capacity	Maximum Capacity	Entities	Quantity	Unit	Installation and Initial Configuration?	Maintenance and Technical Support?	Associated RFPs
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### Description of Other Functions

Id	Name
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Narrative

## Category Two Service Requests

Service Type	Function	Manufacturer	Other	Entities	Quantity	Unit	Installation and Initial Configuration?	Associated RFPs
Internal Connections	Firewall Service and Components	Meraki or equivalent			1	Each	Yes	27583

## Description of Other Manufacturers

<b>Id</b>	<b>Name</b>
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### Narrative

Requesting bids for firewall hardware device and supporting licensing to integrate into the current Meraki Wireless and switch infrastructure. Bidder requested to include all necessary cabling, connectors, components, installation, configuration, travel, per diem and any other applicable fees. District is requesting basic maintenance for new equipment and bundled warranty only for equipment listed on this request. See RFP for further details.

## Technical Contact

Andrew Smith  
Building and Systems Administrator  
801-627-3066 ext.3711  
asmith@ogdenprep.org

## State and Local Procurement Restrictions

All accepted bids shall be subject to E-Rate funding and subsequent governing board approval. The Applicant may consider multi-year contracts and/or contracts featuring voluntary extensions. See RFP for details. Bidders must comply with Lowest Corresponding Price (LCP) rule.

## Recipients of Service

<b>Billed Entity Number</b>	<b>Billed Entity Name</b>
16072231	OGDEN PREPARATORY ACADEMY

## Certifications

I certify that the applicant includes:

I certify that the applicant includes schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801 (18) and (38), that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million.

### Other Certifications

I certify that this FCC Form 470 and any applicable RFP will be available for review by potential bidders for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted will be carefully considered and the bid selected will be for the most cost-effective service or equipment offering, with price being the primary factor, and will be the most cost-effective means of meeting educational needs and technology goals.

I certify that I have reviewed all applicable FCC, state, and local procurement/competitive bidding requirements and that I have complied with them. I acknowledge that persons willfully making false statements on this form may be punished by fine or forfeiture, under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001.

I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program.

I certify that I will retain required documents for a period of at least 10 years (or whatever retention period is required by the rules in effect at the time of this certification) after the later of the last day of the applicable funding year or the service delivery deadline for the associated funding request. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the form for, receipt of, and delivery of services receiving schools and libraries discounts. I acknowledge that I may be audited pursuant to participation in the schools and libraries program. I certify that the services the applicant purchases at discounts provided by 47 U.S.C. § 254 will be used primarily for educational purposes, see 47 C.F.R. § 54.500, and will not be sold, resold or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. § 54.513. Additionally, I certify that the entity or entities listed on this form have not received anything of value or a promise of anything of value, other than services and equipment sought by means of this form, from the service provider, or any representative or agent thereof or any consultant in connection with this request for services.

I acknowledge that support under this support mechanism is conditional upon the school(s) and/or library(ies) I represent securing access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that I have considered what financial resources should be available to cover these costs. I certify that I am authorized to procure eligible services for the eligible entity(ies). I certify that I am authorized to submit this request on behalf of the eligible entity(ies) listed on this form, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

#### NOTICE:

In accordance with Section 54.503 of the Federal Communications Commission's ("Commission") rules, certain schools and libraries ordering services that are eligible for and seeking universal service discounts must file this Description of Services Requested and Certification Form (FCC Form 470) with the Universal Service Administrator. 47 C.F.R. § 54.503. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.503. Schools and libraries must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information requested in this form. We will use the information you provide to determine whether you have complied with the competitive bidding requirements applicable to requests for universal service discounts. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, the information you provide in this form may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information you provide in this form may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, information provided in or submitted with this form, or in response to subsequent inquiries, may also be subject to disclosure consistent with the Communications Act of 1934, FCC regulations, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law.

If you owe a past due debt to the federal government, the information you provide in this form may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC or Universal Service Administrator may return your form without action or deny a related request for universal service discounts.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 3.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information,

including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554. We also will accept your comments via the email if you send them to PRA@FCC.gov. DO NOT SEND COMPLETED WORKSHEETS TO THESE ADDRESSES.

**Authorized Person**

Andrew Smith  
OGDEN PREPARATORY ACADEMY  
1415 Lincoln Ave.  
Ogden, WEBER, UT 84401  
801-627-3066 ext.3711  
asmith@ogdenprep.org

**Certified Timestamp**

02/03/2017 12:16 PM EST



**ATTACHMENT E – RFP  
Bid Specifications**

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# REQUEST FOR PROPOSAL

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**ERATE FUNDING YEAR 2017-18**

**FCC FORM 470 # 170064116 (OGDE 2017-C2)**

**APPLICANT**

Ogden Preparatory Academy (BEN: 16072231)

1415 Lincoln Ave., Ogden, UT 84401

(801) 627-3066

**DUE DATE: Tuesday, March 7, 2017**

Bids must be posted online [www.erate470.com](http://www.erate470.com) no later than 11:59 pm CST  
on the due date listed above.

**Submit Questions no later than: Friday, February 17, 2017**

Questions must be submitted online [www.erate470.com](http://www.erate470.com) no later than 11:59 pm CST  
on the due date listed above. (View applicant RFP to post questions).

THE FOLLOWING INFORMATION IS INCLUDED IN THIS RFP:

- APPLICANT BID SPECIFICATIONS
- NOTICE TO SERVICE PROVIDERS
- GENERAL SPECIFICATIONS
- REQUIRED FORMS FOR BIDDERS
- CERTIFICATIONS, EXPERIENCE & REFERENCES – ATTACHMENT C

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# **BID SPECIFICATIONS**

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Username: RBOTTS

## RFP Bid Information

### E-Rate Program Year 2017(07/01/17-06/30/18)

Ogden Preparatory Academy (BEN: 16072231)  
1415 Lincoln Ave., Ogden, UT 84401  
(801) 627-3066

#### REMINDER TO BIDDERS:

Before submitting bids on behalf of this applicant, check to be sure you have completed each of the items listed below. If not, please do so prior to submitting your bids.

- Complete required forms, Read and understand Notice to Service Providers and General Specifications ([www.kelloggllc.com/eratebids.aspx](http://www.kelloggllc.com/eratebids.aspx))
- Read and understand Lowest Corresponding Price rule (<http://www.usac.org/sl/service-providers/step02/lowest-corresponding-price.aspx>)
- Read and understand USAC's Eligible Services (<http://www.usac.org/sl/applicants/beforeyoubegin/eligible-services/default.aspx>). Know the eligibility of the products and services you are bidding on and be able to enter accurate cost-allocations.
- Practice entering your bids using Kellogg & Sovereign School District (sample school) as your test site and following the steps in the Step-by-Step Bidding Guide ([www.kelloggllc.com/docs/sp/step\\_by\\_step\\_bidding.pdf](http://www.kelloggllc.com/docs/sp/step_by_step_bidding.pdf))
- Review RFP Changes from the main menu ([www.erate470.com](http://www.erate470.com))
- Attend required walk-throughs ([www.erate470.com](http://www.erate470.com))

If you are submitting a blanket bid, contact KSLLC for instructions and access to blanket bidding. Any errors that require KSLLC to make corrections will result in charges for the costs incurred.

#### Ogden Preparatory Academy - Program Year 2017(07/01/17-06/30/18)

##### General RFP Information

**Due Date:** 03/07/2017

**Last date to submit questions:** 02/17/2017

**Form 470-1:** C1 Only

**Form 470 Date:** 02/03/2017

**Form 470-2:** 170064116

**Forum Link:** [www.erate470.com](http://www.erate470.com)

**Bidding Notes:**

**Questions:**

All questions must be submitted through the Q&A Forum by the Question Cut-Off deadline, unless otherwise instructed.

Submit questions using the "Ask A Question" feature on the online RFP found at [www.erate470.com](http://www.erate470.com). Answers will be posted on [www.erate470.com](http://www.erate470.com) and in an addendum posted on USAC's EPC.

ALL COSTS: Bidders must include all costs with your proposal Including monthly charges, non-recurring charges, estimated surcharges, and fees. **\*\*Failure to list all costs may disqualify bidder.\*\***

#### C2: Internal Broadband Components: Category Two - Internal Broadband Connections Components

**Ogden Preparatory Academy - Program Year 2017(07/01/17-06/30/18)****Firewall Appliance (Data Protection)**

Firewall Appliance. Include all components necessary for equipment to be fully operational including configuration and installation.

**Location:** District **Type:** As Recommended **Qty:** 1 (268)

**Notes:**

Ogden Preparatory Academy is seeking proposals for a cloud based physical Firewall that can handle the throughput for our existing internet speed and student/employee population as well as the potential for increase in the student and employee usage and future internet speeds.

Bidders must include the hardware device and supporting licensing to integrate into the current Meraki Wireless and switch infrastructure.

Meraki MX400 OR EQUIVALENT that will handle the above mentioned needs.

**Firewall - Installation**

Installation and configuration for eligible Internal Broadband Components including travel and per diem.

**Needed:** YES (269)

**C2: Maintenance: CategoryTwo - Maintenance****Basic Maintenance (Maintenance and Technical Support)**

Basic Maintenance. Bidder may add items from list provided by applicant, modify items, and add items to be maintained.

**Request Next Year?** As Needed (271)

**Notes:**

Maintenance for new equipment and bundled warranty only. If there is no separate fee for maintenance on the new equipment, a separate maintenance bid is not needed.

Last updated by RBOTTS on 02/03/2017 09:28 AM

## **ATTACHMENT F – Excerpts from Bids Received**

# Pricing

Prices good through June 30, 2017

Manufacturer	Model	Part Number	Description	List Price	Unit Price	Quantity	Extended Price	Location	% Eligible
Juniper	SRX1500	SRX-1500-AC	SRX1500 with 16x1G, 4x10G (SFP+) on-board ports, 1x AC PSU and 120GB SSD	\$11,000.00	\$2,503.00	1	\$2,503.00	Main	100
Juniper	SRX1500	SRX-1500-JSE	SRX1500 Juniper Secure Edge software with Firewall, NAT, IPSec, Routing, Switching, MPLS and Application Security services	\$11,000.00	\$6,258.00	1	\$6,258.00	Main	100
Juniper	SRX1500	SVC-COR-SRX1500JSE	Juniper Care Core Support for SRX1500-JSE	\$1,650.00	\$1,114.00	1	\$1,114.00	Main	100
Juniper	SRX1500	SVC-CP-SRX1500HW	Juniper Care Core Plus Support for SRX1500-AC	\$594.00	\$401.00	1	\$401.00	Main	100
Tek-Hut, Inc.		Labor	On-site installation and configuration at customer location		\$750.00	1	\$750.00	Main	100
List Price Total:				\$24,244.00			<b>Subtotal:</b>		
							Shipping:	\$0.00	
							Use Tax:	\$0.00	
							<b>Total:</b>	<b>\$11,026.00</b>	



## E-Rate Funding Year 2017 BID FOR SERVICES

Bid #: 11990

Page 2

NetDiverse LLC  
SPIN: 143036067  
FCC RN: 829068

**Category:** C2: Internal Broadband Components

Ogden Preparatory Academy  
BEN:16072231  
Ogden, UT

**Location:** ES BEN 16035073

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### Proposal/Contract Contingent upon E-Rate Funding & School Board Approval

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Manufacturer	Product Name	Part #	Qty	List Price	Sell Price	Pd	Ext. Price	Elig Pct	Ext. Eligible
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#### Firewall Appliance (Data Protection)

Meraki	MX400	MX400HW+ ENT5YRLIC	1	48,393.00	25,036.00	1	25,036.00	100	25,036.00
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Description: Meraki MX400HW plus Enterprise 5 year License Bundle with 2 SFP+ (10Gbps) Interface Cards with 2 SFP+ ports each for a total of 4 SFP+ ports, Plus 4 TwinAx (10Gbps Direct Attach) Cables for connections between MX-400 and existing 10Gbps capable switches and equipment.

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Total for Firewall Appliance:	\$25,036.00	\$25,036.00
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#### Firewall - Installation

NetDiverse	Meraki MX400	ND-FW-INST- MX400	1	5,200.00	2,500.00	1	2,500.00	100	2,500.00
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Description: NetDiverse Meraki MX400 Firewall Installation and Configuration

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Total for Firewall - Installation:	\$2,500.00	\$2,500.00
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<b>Total for C2: Internal Broadband Components:</b>	<b>\$27,536.00</b>	<b>\$27,536.00</b>
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## E-Rate Funding Year 2017 BID FOR SERVICES

Bid #: 11992

Page 2

NetDiverse LLC  
SPIN: 143036067  
FCC RN: 829068  
**Category:** C2: Maintenance

Ogden Preparatory Academy  
BEN: 16072231  
Ogden, UT  
**Location:** ES BEN 16035073

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### Proposal/Contract Contingent upon E-Rate Funding & School Board Approval

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Manufacturer	Product Name	Part #	Qty	List Price	Sell Price	Pd	Ext. Price	Elig Pct	Ext. Eligible
<b>Basic Maintenance (Maintenance and Technical Support)</b>									
Basic Maintenance			1	2,400.00	2,400.00	1	2,400.00	100	2,400.00
Description: Basic Maintenance for E-Rate eligible equipment. See attached detail.									

Total for Basic Maintenance: \$2,400.00 \$2,400.00

**Total for C2: Maintenance: \$2,400.00 \$2,400.00**

**Proposed By:**

03/07/2017  
Date

Gary Nieboer  
Managing Member  
NetDiverse LLC  
885 Sandhurst Drive  
Salt Lake City, UT 84103  
(801) 657-5484

**Accepted By:**

03/30/2017  
Date

Amie Campbell  
Principal/Director  
1415 Lincoln Ave.  
Ogden, UT 84401